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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,472	09/15/2005	Juergen H. Rabe	273513US0PCT	3315
22850	7590	07/10/2007	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			DELCOTTO, GREGORY R	
			ART UNIT	PAPER NUMBER
			1751	
			NOTIFICATION DATE	DELIVERY MODE
			07/10/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	Application No. 10/539,472	Applicant(s) RABE ET AL.	
	Examiner Gregory R. Del Cotto	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on Amend. filed 4/10/07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 12-22 are pending. Applicant's amendments and arguments filed 4/10/07 have been entered.

### **Objections/Rejections Withdrawn**

The following objections/rejections as set forth in the Office action mailed 1/10/07 have been withdrawn:

The rejection of claims 12-19, 21, and 22 under 35 USC 102(b) as being anticipated by British Patent GB 1,494,543 to Kao Soap Company Limited has been withdrawn.

The rejection of claim 20 under 35 USC 103(a) as being unpatentable over GB 1,494,543 as applied to claims 12-19, 21, and 22, and further in view of US 2002/0127168 has been withdrawn.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

Claim 19 is objected to because of the following informalities:

With respect to instant claim 19, it is suggested that Applicant change "5 mm" to "5 min".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jakob et al (US 2002/0127168).

Jakob et al teach coated sodium percarbonate with improved internal stability and storage stability. See Abstract. Suitable coating agents include sodium carbonate, alkali metal silicates, magnesium sulfate, etc. See para. 28. Jakob et al teach thermal treatment which is preferably carried out in a fluidized bed immediately following the drying state. According to a preferred embodiment, the thermal treatment of the sodium percarbonate is carried out at a temperature in the range from 80 to 95 degrees Celsius

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at a treatment time from 5 to 60 minutes. See paras. 42-46. Note that, with respect to the available oxygen and fizzing properties of the coated percarbonate particles as recited by the instant claims, the Examiner asserts that the coated percarbonate particles specifically taught by Jakob et al would inherently have the same available oxygen and fizzing properties as recited by the instant claims because Jakob et al teach coated percarbonate particles which are the same as recited by the instant claims. Jakob et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of Jakob et al anticipate the material limitations of the instant claims.

Alternatively, even if the broad teachings of Jakob et al are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art to arrive at the claimed available oxygen and fizzing properties of the composition in order to provide the optimum cleaning properties to the composition because Jakob et al teach that the amounts and types of required components added to the composition may be varied.

Claims 12-19, 21, and 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 459,625 or EP 623,553.

'625 teaches a process for producing a stabilized sodium percarbonate comprising separately spraying an aqueous boric acid solution and an aqueous alkali metal silicate solution onto sodium percarbonate particles to coat the sodium

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percarbonate particles with boric acid and alkali metal silicate. See Abstract. The temperature of the sodium percarbonate during the spraying/drying is 30 to 100 degrees Celsius. See page 3, lines 45-50. Specifically, '625 teaches that particles of sodium percarbonate were kept in a fluidized state by passing a hot air at 100 degrees Celsius therethrough from under the plate. See page 5, lines 1-20. Note that, with respect to the available oxygen and fizzing properties of the coated percarbonate particles as recited by the instant claims, the Examiner asserts that the coated percarbonate particles specifically taught by '625 would inherently have the same available oxygen and fizzing properties as recited by the instant claims because '625 teaches coated percarbonate particles which are the same as recited by the instant claims. '625 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '625 anticipate the material limitations of the instant claims.

'553 teaches a stabilized sodium percarbonate particle which includes a sodium percarbonate particle having at least one coating layer thereon, wherein the at least one coating layer includes a silicate; magnesium sulfate, and an alkali metal salt selected from the group consisting of alkali metal carbonates, alkali metal bicarbonates, and alkali metal sulfate. The present sodium percarbonate particle is good in solubility and is excellent in its formulation stability with detergent. See Abstract. The temperature of the sodium percarbonate at the time of spray-drying is preferably from 40 to 95 degrees Celsius. Specifically, '553 teaches that percarbonate was placed on a multipore plate of

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a fluid dry coater. See Example 1. '553 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '553 anticipates the material limitations of the instant claims.

Alternatively, even if the broad teachings of '553 or '625 are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art to arrive at the claimed available oxygen and fizzing properties of the composition in order to provide the optimum cleaning properties to the composition because '553 or '625 teach that the amounts and types of required components added to the composition may be varied.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 459,625 or EP 623,553 as applied to claims 12-19, 21, and 22 above, and further in view of Jakob et al (US 2002/0127168).

'625 or '553 are relied upon as set forth above. However, neither reference teaches the use of a fluidized bed apparatus as recited by instant claim 20.

Jakob et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate a fluidized bed reactor in the process as taught by '625 or '553, with a reasonable expectation of success, because Jakob et al teach that spraying and drying including thermal conditioning of a similar coated percarbonate particle may take place in a fluid bed reactor and further, '625 or '553 teach that various



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reactors may be used for spraying and drying with hot air which would encompass fluid bed reactors.

### ***Response to Arguments***

Note that, Applicant's arguments are moot since all previously made prior art rejections have been withdrawn and a new ground(s) of rejection have been made as set forth above.

### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.


Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gregory R. Del Cotto  
Primary Examiner  
Art Unit 1751

GRD  
July 2, 2007